

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
ORANGEBURG DIVISION**

Kevin Lamar Wright,	)	
	)	Civil Action No.: 5:18-cv-02720-JMC
Plaintiff,	)	
	)	
v.	)	<b>ORDER</b>
	)	
	)	
Timothy Budz, Christopher Kunkle,	)	
Chandra Goodwin, and Captain Ugiano,	)	
	)	
	)	
Defendants.	)	
_____	)	

This matter is before the court for review of the Magistrate Judge’s Report and Recommendation (“Report”) filed on November 1, 2018 (ECF No. 14). The Report addresses Defendants Timothy Budz, Christopher Kunkle, Chandra Goodwin, and Captain Ugiano’s (collectively “Defendants”) Notice of Removal filed on October 5, 2018, (ECF No. 1) and the claims pursued by Plaintiff Kevin Lamar Wright (“Plaintiff”) (ECF No. 10). For the reasons stated herein, the court **ACCEPTS** the Report and **REMANDS** this matter to the Richland County Court of Common Pleas without prejudice to Defendants’ rights to file responses to Plaintiff’s filings within that court.

**I. FACTUAL AND PROCEDURAL BACKGROUND**

The Report sets forth the relevant facts, which this court incorporates without a full recitation. (ECF No. 14.) As brief background, on October 5, 2018, Defendants filed a Notice of Removal in the United States District Court for the District of South Carolina. (ECF No. 1.) On October 17, 2018, the Magistrate Judge noted that Plaintiff did not reference “any federal law or constitutional provision” and issued an order requiring Plaintiff to advise the court whether he is

pursuing claims based upon federal or state law. (ECF No. 10.) On October 12, 2018, proceeding *pro se*, Plaintiff responded to the Magistrate Judge and advised that he was only pursuing claims under state law. (ECF No. 12.) Defendants replied to Plaintiff on October 30, 2018, and consented to the remand of this matter. (ECF No. 13.)

The Magistrate Judge filed her Report on November 1, 2018. (ECF No. 14.) Within the Report, the Magistrate Judge advised that Plaintiff was only pursuing state-based claims in his Complaint, and Defendants have consented to the remand of this action. (*Id.* at 1.) Also, on November 1, 2018, the Magistrate Judge advised the parties of their right to file specific, written objections to the Report. (ECF No. 14-1 at 1.) Neither party has filed any written objections to the Report.

## **II. STANDARD OF REVIEW**

The Magistrate Judge's Report is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The Magistrate Judge only makes a recommendation to this court, and the recommendation has no presumptive weight. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The responsibility to make a final determination remains with the court. *Id.* at 271. As such, the court is charged with making *de novo* determinations of those portions of the Report and Recommendation to which specific objections are made. *See* 28 U.S.C. § 636(b)(1); *see also* Fed. R. Civ. P. 72(b)(3). Thus, the court may accept, reject, or modify, in whole or in part, the Magistrate Judge's recommendation or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

## **III. DISCUSSION**

In the absence of specific objections to the Magistrate Judge's Report, the court is not required to give any explanation for adopting the Report. *See Camby v. Davis*, 718 F.2d 198, 199

(4th Cir. 1983). Absent objections, the court must only ensure that there is no clear error on the face of the record in order to accept the recommendation. *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note). Furthermore, a failure to file specific, written objections to the Report results in a party's waiver of the right to appeal from the judgment of the court based upon such recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984). Accordingly, since none of the parties filed any objections to the Report, and the court observes no clear error on the face of the record, the court accepts the Magistrate Judge's Report. *See Diamond*, 416 F.3d at 315; *Camby*, 718 F.2d at 199.

#### IV. CONCLUSION

After a thorough review of the Report and the record in this case, the court **ACCEPTS** the Magistrate Judge's Report and Recommendation (ECF No. 14) and incorporates it herein. The court **REMANDS** this matter to the Richland County Court of Common Pleas without prejudice to Defendants' rights to file responses to Plaintiff's filings within that court.

**IT IS SO ORDERED.**

A handwritten signature in black ink, reading "J. Michelle Childs". The signature is written in a cursive, flowing style.

United States District Judge

December 6, 2018  
Columbia, South Carolina